

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Application of Central Illinois Public Service)	
Company d/b/a AmerenCIPS for a Certificate)	
of Public Convenience and Necessity under)	Docket No. 01-0620
Section 8-406 of the Illinois Public Utilities Act)	
to construct, operate and maintain a 138 kV)	
transmission line in Ford County, Illinois)	

INITIAL BRIEF OF CENTRAL ILLINOIS PUBLIC SERVICE COMPANY

David B. Hennen
Attorney for
Central Illinois Public Service
Company
1901 Chouteau Avenue
P.O. Box 66149 (M/C 1310)
St. Louis, MO 63166-6149
(314) 554-4673
(314) 554-4014 (fax)
dhennen@ameren.com

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TABLE OF CONTENTS

I.	Procedural and Factual History.....	3
II.	Requirements for obtaining a certificate of convenience and necessity under Illinois statute.....	6
III.	CIPS' petition requesting a certificate of public convenience to construct the Gibson City to Paxton East line should be granted because the line is necessary to provide adequate, reliable and efficient service to its customers	6
	a. CIPS is required to furnish, provide, and maintain such service instrumentalities, equipment, and facilities for its customers as shall be in all respects adequate, efficient, just, and reasonable....	7
	b. Ameren Energy Generating is a customer of CIPS and is thereby entitled to, in all respects, adequate service	8
	c. Ameren's open access transmission tariff requires CIPS to plan, construct, operate and maintain its transmission system in accordance with Good Utility Practice	11
	d. Failure to construct the proposed line would cause CIPS to be in violation of the NERC Planning Standards and CIPS Planning Criteria and in violation of Good Utility Practice.....	12
	e. There is no basis for applying a probability analysis to the single contingency planning criterion in the NERC Planning Standard or CIPS Planning Criteria	13
IV.	The Company's petition requesting a certificate of public convenience to construct the Gibson City to Paxton East line should be granted because the line is the least-cost method of providing adequate service to AEG	15
	a. Staff supports the proposed route chosen by CIPS as the least cost means of satisfying the service needs of its customers.....	15
	b. The evaluation of externalities is not supported by the Public Utilities Act or by decisions of the Commission or the Courts of the State of Illinois.....	16
V.	Conclusion.....	19

I. Procedural and Factual History

On September 27, 2001, Central Illinois Public Service Company, dba AmerenCIPS ("CIPS") filed a petition in this proceeding seeking a certificate of public convenience and necessity ("Certificate") under Section 8-406 of the Illinois Public Utilities Act ("Act"), 220 ILCS 5/8-406, authorizing it to construct, operate and maintain a new 138 kilovolt transmission line in Ford County, Illinois. CIPS is seeking authority to construct the new transmission line in order to provide sufficient transmission line capacity to outlet the full output of an Ameren Energy Generating ("AEG") Plant located in Gibson City, Illinois during a single contingency event.

AEG, like CIPS, is a subsidiary of Ameren Corporation. AEG is not a public utility within the meaning of the Act. AEG, which sells power at wholesale, is an exempt wholesale generator within the meaning of the Public Utility Holding Company Act of 1935, and is an electric utility within the meaning of the Federal Power Act.

CIPS along with Union Electric Company¹ operate their transmission systems as a single system pursuant to the Ameren open access transmission tariff ("OATT") approved by the Federal Energy Regulatory Commission ("FERC")².

At Gibson City, Illinois, AEG owns and operates two generating units ("Gibson City Plant"). The total maximum summer capacity output of Gibson City Plant is 234 megawatts, and the winter capacity output is 270 megawatts. It is not disputed that the maximum output of the Gibson City Plant causes an overload of the existing outlet transmission lines at the Gibson City substation during a single contingency event.

¹ Union Electric Company ("UE") is also a subsidiary of Ameren Corporation and an affiliate of CIPS.

² Ameren Services Company, as agent for CIPS and UE, operates the combined transmission systems of CIPS and UE pursuant to the Ameren OATT.

In accordance with Ameren's OATT, CIPS has designated the full output of the Gibson City Plant to be a Network Resource. As a result thereof, CIPS is hereby requesting authority from the Commission to construct the new 138 kilovolt transmission line so that the full output of the Gibson City Plant can be delivered to CIPS load on a non-interruptible basis, as required by the Ameren OATT.

Also on September 27, 2001, direct testimony was filed concurrently with the petition by the following CIPS' witnesses: Kiritkumar ("Kirit") S. Shah, David W. DeWeese and Ronald D. Laupp. On November 1, 2001, supplemental direct testimony was filed by Ronald D. Laupp.

On December 12, 2001, a petition for leave to intervene was filed on behalf of the 500 Road Group ("Intervenors"). On December 19, 2001, the Administrative Law Judge granted the Intervenors petition to intervene.

On January 17, 2002, in an effort to acquire adequate protection with respect to information of a confidential, proprietary and/or competitive nature that could be requested of CIPS or its affiliate utility Union Electric during this proceeding, CIPS' filed a Motion for Entry of Protective Order pursuant to Section 200.430 of the Commission's Rules of Practice and Procedure, 83 Ill. Admin. Code §200.430.

On January 25, 2002, a Response to the Motion for Entry of Protective Order was filed on behalf of the Intervenors. The response contained a revised Protective Order agreed and stipulated to by the Intervenors and CIPS.

On February 1, 2002, CIPS filed a Reply to Response to Motion for Entry of Protective Order. The reply was filed by CIPS to alter Appendix B of the Protective Order to eliminate the need to file duplicate copies of testimony containing Proprietary or

Highly Confidential information. A revised Appendix B, attached to the reply, contained language that was agreed and stipulated to by the Intervenors, Staff Counsel of the Commission and CIPS. On February 4, 2002, the Administrative Law Judge ruled that the Protective Order filed in the reply by CIPS should be followed in this proceeding.

On February 19, 2002, direct testimony was filed on behalf of the Intervenors and by Commission Staff witnesses Bruce A. Larson, P.E. and Phil A. Hardas.

On March 8, 2002, rebuttal testimony was filed by CIPS' witness Kiritkumar S. Shah.

On April 19, 2002, rebuttal testimony was filed on behalf of the Intervenors and by Commission Staff witness Bruce A. Larson, P.E.

On May 10, 2002, surrebuttal testimony was filed by CIPS' witnesses Kiritkumar S. Shah and David W. DeWeese.

On May 24, 2002, a Motion to Intervene was filed by AEG. Along with its Motion to Intervene, AEG also filed a Motion in Limine requesting that the issues in this case be limited to (i) whether the new line is needed to serve AEG in accordance with CIPS' obligations under federal law; and (ii) whether the new line is the least-cost means of discharging those obligations.

On May 24, 2002, responses to the Motion in Limine were filed by Staff Counsel for the Commission and on behalf of the Intervenors each requesting that the Motion in Limine be denied. Neither Staff nor the Intervenors objected to the intervention request of AEG.

On May 29, 2002, the Administrative Law Judge granted the motion of AEG to intervene but denied its requested Motion in Limine.

On May 29, 2002 an administrative hearing was held before the Administrative Law Judge in this case.

The issuance of a Certificate depends on the resolution of a single factual issue in this proceeding -- whether the additional facilities are required under standard utility operating practices to provide transmission service for the full output of a generating facility at Gibson City owned by Ameren Energy Generating Company ("AEG"). The record establishes that such a line is required, both under a proper engineering analysis and to satisfy AmerenCIPS' obligations under its federal Open Access Transmission Tariff ("OATT") and under the Illinois Public Utilities Act ("Act"), 220 ILCS 5/1-101 et seq.. Moreover, denial of AmerenCIPS' request would send the wrong signal to generators seeking to locate plants in Illinois. Accordingly, AmerenCIPS has established a need for the new facilities and the Commission should grant the request for a Certificate.

The issuance of a Certificate is opposed by both the Staff and the Intervenors. The Staff's opposition appears to rest in large part on the Staff's view that AmerenCIPS has altered the factual basis for its request during the course of the proceeding, contending first (according to Staff) that the new line was required to serve native load retail customers, and only later admitting that the principal beneficiary would be AEG. AmerenCIPS respectfully disagrees with the Staff. AmerenCIPS never made any secret of the fact that this line was intended to allow AmerenCIPS to serve the full output of the AEG facility. Native load customers will also benefit, although AmerenCIPS does not contend (and never intended to suggest) that without the new line AmerenCIPS cannot provide adequate service to its native load customers. To the extent that AmerenCIPS

said anything in this case that could have been reasonably construed to mean that without the line AmerenCIPS cannot provide adequate service to retail customers, it apologizes. AmerenCIPS never intended to suggest any such thing.

The Staff also proposes that the Commission apply transmission engineering principles in a manner in which they have never been applied before, and which standard industry manuals do not support. The Commission should reject this proposal. The Staff's proposal would result in transmission planning which produces less reliable systems.

The Intervenor contend that AmerenCIPS has failed to properly account for certain "externalities" associated with its proposed line. The externalities consist of the effect of the line on properties that the line does not cross. The record does not support the inclusion of any speculative estimates of externalities in the cost of the proposed project.

Accordingly, the record supports the issuance of a Certificate, and would not support any contrary conclusion.

II. Requirements for obtaining a certificate of convenience and necessity under Illinois statute

To lawfully construct the proposed transmission system upgrade under the Act, CIPS must obtain a certificate of public convenience and necessity under Section 8-406 of the Act. Section 8-406 provides, in relevant part, that:

The Commission shall determine that the proposed construction will promote the public convenience and necessity only if the utility demonstrates: (1) that the proposed construction is necessary to provide adequate, reliable and efficient service to its customers and is the least-cost means of satisfying the service needs of its customers; (2) that the

utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof; and (3) that the utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

None of the testimony submitted in this proceeding has raised any contested issue with respect to clause (2) or (3) of the quoted statutory language. The only contested issues in this case arise under clause (1).

AmerenCIPS believes that the proper interpretation of clause (1) requires the Commission to consider AEG as a customer to which AmerenCIPS owes an obligation. In that regard, the Commission's inquiry should involve a determination of whether the construction is necessary to provide adequate and reasonable service to AEG, bearing in mind AmerenCIPS' obligation under federal law to accommodate AEG's transmission needs.

This is precisely the manner in which the Commission has framed the issue previously. In its Order in Docket No. 00-0386 (the “Elwood” case), a proceeding involving Commonwealth Edison Company (“ComEd”), the Commission granted ComEd a certificate authorizing it to construct a new 345 kV transmission line to serve an expansion of an existing generating facility by an IPP. In the Order, the Commission stated that:

ComEd has demonstrated that the construction of the project is in the public interest and is necessary for ComEd to serve . . . an independent power producer planning to expand its generation plant, . . . close to one of ComEd’s existing bulk power transmission line rights-of-way. Pursuant to orders issued by the [FERC], ComEd is required by Federal law to make a good faith effort to serve the new generating station and it is required by Illinois law to furnish without delay suitable facilities and service to all who apply for and are entitled to them.

Order, Docket No. 00-0386. In the Order, the Commission did not conduct or rely on any assessment of whether the power from the generating plant expansion was or will be required to serve ComEd's load or any retail load in Illinois.

In the Elwood case, the Staff also recognized the difference between a case in which a utility seeks to expand its transmission system to serve native load and one in which the utility seeks to improve the system in order to serve a customer in wholesale market. In the Order, the Commission summarized the testimony of Staff witness Linkenback. "Mr. Linkenback determined that the project is necessary to provide adequate, reliable and efficient service to [the IPP] and is the least cost means of providing [the IPP] access to ComEd's bulk power transmission network. . . . He also explained that this request for a Certificate is different from most because it is not needed to reinforce or upgrade ComEd's system. It is necessary to connect a customer, in this instance, [the IPP]." Order, Docket No. 00-0386, p. 6.

The Staff has framed the issue in the same manner in another, pending proceeding involving ComEd. In Docket No. 00-0660, ComEd is seeking a Certificate to construct a 138 kV transmission line to connect a new generating station being constructed by an affiliate of Duke Energy. Staff witness Linkenback has taken the position that the Certificate should be granted because the line is necessary to serve ComEd's customer, the Duke affiliate that will own and operate the station.

Accordingly, the test that AmerenCIPS must meet in this case is this: where an IPP customer of a utility seeks service to accommodate a generation expansion or installation, the Commission will review a request for a Certificate to determine whether the proposed transmission facilities are required to accommodate the service request by

the IPP, and whether the proposed transmission facilities represent the least-cost means of satisfying the IPP's service request.

III. The Company's petition requesting a certificate of public convenience to construct the Gibson City to Paxton East line should be granted because the line is necessary to provide adequate, reliable and efficient service to its customers.

In accordance with Illinois statute, CIPS is required to furnish, provide, and maintain its delivery system for its customers in a manner that is not discriminatory and is in all respects adequate, efficient and reliable. As a customer of CIPS, AEG is entitled to the same level of non-discriminatory, adequate service that CIPS is obligated to provide all users of its system. In addition to state statute, CIPS is also obligated under federal law to provide non-discriminatory access to its transmission system pursuant to the Ameren OATT. Furthermore, the Ameren OATT requires CIPS to plan, operate and maintain its transmission system in accordance with Good Utility Practice. Good Utility Practice requires CIPS to adhere to the requirements of the North American Electric Reliability Council ("NERC") Planning Standards and CIPS Transmission Planning Criteria and Guidelines ("CIPS Planning Criteria"). It is CIPS' desire to adhere to the NERC Planning Standards and the CIPS Planning Criteria that has prompted CIPS to seek authority in this proceeding to construct the new transmission line. Failure of the Commission to grant the requested Certificate authorizing the construction of the new line would cause CIPS to be in violation of these state and federal requirements.

- a. CIPS is required to furnish, provide, and maintain such service instrumentalities, equipment, and facilities for its customers as shall be in all respects adequate, efficient, just, and reasonable.**

Illinois statute clearly and unambiguously states that CIPS "shall furnish, provide, and maintain such service instrumentalities, equipment, and facilities for its customers as shall be in all respects adequate, efficient, just and reasonable. ... [and] shall, upon reasonable notice, furnish to all persons who may apply therefor and be reasonably entitled thereto, suitable facilities and service, without discrimination and without delay." (emphasis added) (220 ILCS 5/8-101.) This statute is the blueprint in which public utilities such as CIPS are required to provide service to their customers, and it is non-discretionary.

The Illinois statute does not permit CIPS to ignore the requests for service of its customers, but instead requires it to "furnish to all persons who may apply...suitable facilities and service, without discrimination and without delay." (Id.) Moreover, the statute does not permit CIPS to provide equipment and facilities that are adequate during the summer but become inadequate during the winter. The statute does not permit CIPS to provide equipment and facilities that are adequate during off-peak periods but become overloaded during peak periods. To the contrary, the statute unequivocally requires the facilities over which CIPS provides service to its customers to be adequate "in all respects." (Id.)

The Illinois statute also requires CIPS to provide such service to its customers "without discrimination." (Id.) Now that customer choice is available to all electric consumers in Illinois, nothing in the Illinois statute could be more important than the requirement imposed on CIPS to provide service to all of its customers on a non-discriminatory basis. CIPS cannot and should not be permitted to provide one level of service to its bundled native load customers while at the same time providing an inferior

level of service to those customers who have chosen another supplier or to those customers only electing delivery services. Furthermore, by virtue of this provision in the Illinois statute, CIPS is strictly prohibited from providing an owner of base-load generation with outlet capability that is in compliance with the NERC Planning Standards and the CIPS Planning Criteria, while refusing similar requests from owners of peaking plants. Since all power producers are customers of CIPS, all power producers, including CIPS' affiliate AEG, should receive the same level of reliable and adequate access to the transmission grid when such entities request firm access to the grid.

b. Ameren Energy Generating is a customer of CIPS and is thereby entitled to, in all respects, adequate service.

Since the inception of open access at the federal level and customer choice at the state level, the classes of customers in which CIPS is obligated to serve has evolved. The term customer is no longer limited to bundled retail and wholesale customers that were at one time exclusively served by vertically integrated utilities. CIPS' customers now include independent power producers, third party transmission customers, delivery service customers in addition to the more traditional bundled retail customers.

As an owner of a merchant generation facility at Gibson City, Illinois, AEG, an independent power producer, is one of these new types of customers that CIPS has an obligation to serve. (See Shah Rebuttal Testimony, AmerenCIPS Ex. 5.0, at line 46.) Neither Staff nor the Intervenors have refuted this assertion. Furthermore, pursuant to Order No. 888³ issued by the FERC in April of 1996, CIPS is required to provide non-

³ Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, FERC Stats. And Regs. ¶ 31,036, clarified, 76 FERC ¶ 61,009 and 76 FERC ¶ 61,347 (1996), on rehearing Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (1997), order on rehearing Order No. 888-B, 81 FERC ¶ 61,248 (1997), on rehearing Order No. 888-C, 82 FERC ¶ 61,046 (1998).

discriminatory access to all users of its transmission system. (Order No. 888 at 31,654-55) This means that any customer requesting transmission service from CIPS, including independent power producers, must be provided such service on the same basis that CIPS provides service to all of its other transmission customers including point-to point customers, network customers and native load customers.

Moreover, independent power producers, such as AEG, are operated, as you would expect, independent from transmission providers like CIPS. (See Shah Surrebuttal Testimony, AmerenCIPS Ex. 7.0 at lines 91-96.) Because they are independent, CIPS has no control over any aspect of an independent power producer's business objectives. (Id.) CIPS cannot dictate how much generation an independent power producer can install, nor can it dictate where an independent power producer installs its generation. (See Shah Rebuttal Testimony, AmerenCIPS Ex. 5.0 at lines 121-123 and Hearing Transcript p. 185 at lines 19-22, p. 186 lines 1-2.) Notwithstanding CIPS' lack of control over independent power producers, the Ameren OATT requires CIPS to accommodate firm transmission service requests from all transmission customers, including independent power producers, "to expand or modify [its] Transmission System to provide the requested Firm Transmission Service..." (See Section 15.4 of the Ameren OATT at First Revised Sheet No. 49.) Furthermore, FERC requires transmission providers like CIPS to treat affiliated and non-affiliated generators requesting transmission service in a comparable manner. (Southern Company Services, Inc., 98 FERC ¶ 61,328 (2002) and Tampa Electric Company, 99 FERC ¶ 61,192 at 61,797 (2002).)

Non-discriminatory treatment of affiliated and non-affiliated generators is also the driving force compelling CIPS to seek authority to construct the transmission upgrade it

is pursuing in this proceeding. As Mr. Shah stated in his rebuttal testimony, CIPS has consistently applied the NERC Planning Standards and the CIPS Planning Criteria to other independent power producer facilities that have connected to the CIPS transmission system. (See Shah Rebuttal Testimony, AmerenCIPS Ex. 5.0 at lines 81-92.) More specifically, Mr. Shah states in his rebuttal testimony, that in order to comply with the NERC Planning Standards and the CIPS Planning Criteria at Reliant Energy's plant in Neoga, Illinois, CIPS has initiated the process to upgrade the existing Neoga-Mattoon 138kV line and the existing Murdock-Sidney 138kV line so that the full output of the Reliant Energy plant can be delivered during a single contingency event. (Id.) Failure to similarly upgrade the outlet capability for the Gibson City Plant in this instance would constitute an inferior level of service relative to the service provided to Reliant Energy and thereby discriminatory.

c. Ameren's OATT requires CIPS to plan, construct, operate and maintain its transmission system in accordance with Good Utility Practice.

Section 28.2 of the Ameren OATT requires CIPS to "plan, construct, operate and maintain its Transmission System in accordance with Good Utility Practice...[and CIPS] shall, consistent with Good Utility Practice, endeavor to construct and place into service sufficient transmission capacity to deliver the Network Customer's Network Resources to serve its Network Load..." (See Ameren OATT, Section 28.2 at First Revised Sheet Nos. 85-86.) Section 1.14 of the Ameren OATT, which is identical to the pro forma open access tariff set forth in FERC Order No. 888, defines Good Utility Practice to mean:

"Any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision

was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region." (See Ameren OATT, Section 1.14 at First Revised Sheet Nos. 4-5)

Application of the single contingency planning criterion, which Mr. Larson acknowledges in his direct testimony to be "standard in the industry" (See Larson Direct Testimony, ICC Staff Ex. 2.0 at lines 123-124) and which is embodied in the CIPS Planning Criteria (See generally CIPS Larson Cross Ex. 1, at Section II.C.) and the NERC Planning Standard I.A.M2 (See ICC Staff Ex. 3.0, Attachment A), unquestionably and irrefutably constitutes a practice, method and act engaged in or approved by a significant portion of the electric utility industry and is therefore a Good Utility Practice. Hence, when Sections 28.2 and 1.14 of the Ameren OATT are read together, it becomes abundantly clear that CIPS has an obligation to construct, operate and maintain its transmission system to comply with its single contingency planning criterion. As a result, CIPS has an obligation in this instance to place into service sufficient transmission capacity to deliver the full output of a designated Network Resource, during a single contingency event, to the Network Load. This is precisely what CIPS is trying to do by requesting the Certificate in this proceeding which would, if acquired, authorize it to construct the new Gibson City to Paxton East 138 kilovolt transmission line.

d. Failure to construct the proposed line would cause CIPS to be in violation of the NERC Planning Standard, the CIPS Planning Criteria and in violation of Good Utility Practice.

On lines 78-82 of Mr. Larson's direct testimony, Mr. Larson acknowledges that, when the Gibson City Plant is operating at full output, an overload condition will occur

"on either of the two existing 138kV lines serving the Gibson City substation in the event of an outage on either line." (See Larson Direct Testimony, ICC Staff Ex. 2.0 at Lines 78-82.) The outage of either of these lines at the Gibson City substation constitutes a single contingency event on the transmission system. When a single contingency event occurs, NERC Planning Standard I.A.M2 clearly states that entities responsible for the reliability of the interconnected transmission systems shall ensure that the system responses to such a single contingency event shall not result in firm transmission service curtailments. (See generally ICC Staff Exhibit 3.0 Attachment A, Section M2.)

CIPS has designated AEG's entire Gibson City plant as one of its Network Resources. (See Shah Surrebuttal Testimony, AmerenCIPS Ex. 7.0 at lines 104-106.) Because CIPS has designated the Gibson City Plant as a Network Resource, CIPS has the right to call on the energy from the Gibson City Plant at any time and on a non-interruptible basis. (See Hearing Transcript at p. 57, lines 9-22, p. 58, lines 1-6.) The Ameren OATT requires Network Resources to be available to serve Network Load on a non-interruptible or firm basis. (See Ameren OATT, Section 30.1 at First Revised Sheet No. 94.) Requiring Network Resources to be available on a non-interruptible or firm basis means that the transmission service from the Network Resource to the Network Load must be firm transmission service. Because the transmission service from the Network Resource must be firm, it cannot be curtailed during a single contingency event. By curtailing firm transmission service during a single contingency event, CIPS would be in violation of the NERC Planning Standard and also Good Utility Practice. (See Hearing Transcript at p. 124, lines 11-16.) Since CIPS is required to construct, operate and maintain its transmission system in accordance with Good Utility Practice, to remain

in compliance with the Ameren OATT, the NERC Planning Standard, the CIPS Planning Criteria and Good Utility Practice, CIPS must upgrade its transmission system at the Gibson City substation to prevent curtailment of firm transfers from the Gibson City plant to the CIPS' Network Load during a single contingency event.

e. There is no basis for applying a probability analysis to the single contingency planning criterion in the NERC Planning Standard or the CIPS Planning Criteria.

In Mr. Larson's rebuttal testimony, he asserts that "a utility must apply engineering judgment when applying any engineering criterion." (See Larson Rebuttal Testimony, ICC Staff Ex. 3.0 at lines 136-137.) Mr. Larson further asserts that CIPS "should have considered the size of the generation limitation, and the probability the generation limitation would actually occur when applying its first contingency transmission planning criterion..." (Id. at lines 137-140.) Through application of this probabilistic approach, Mr. Larson alleges that the new transmission line cannot be justified. However, Mr. Larson could not provide any justification for this assertion in his direct and rebuttal testimonies nor did he provide any justification or support for imputing a probabilistic approach into the NERC Planning Standard at the hearing, other than his own reading. (See Hearing Transcript at p 139, lines 21-22 and p. 140, lines 1-6.) In fact, when Mr. Larson was directly asked at the hearing whether there is "anything in the NERC Planning Standard ... that requires the utility to calculate the probability of a single contingency event prior to adhering to the standard," Mr. Larson responded by stating "there is not." (See Hearing Transcript at p. 127, lines 21-22 and p. 128, lines 1-4.)

On page 2 of the CIPS Planning Criteria, under the heading Responsibility, the CIPS Planning Criteria clearly state that "[t]he procedure utilized by transmission planners is primarily deterministic. The complexity of transmission system planning has proven to be a barrier to applying probabilistic and value based planned methods to transmission planning." (See CIPS Larson Cross Exhibit 1, at p. 2.) From this statement it is clear, Mr. Larson's opinion that utilities should employ a probabilistic approach to their single contingency planning criterion is just not considered possible due to the complexities of the transmission system. Mr. Larson's insistence that a probabilistic approach should be used by CIPS is therefore, in direct contradiction to the CIPS Planning Criteria, and in this instance, simply not correct.

Mr. Larson further undermined his position by unequivocally admitting under cross-examination that the NERC Planing Standard would be violated if firm transmission service must be curtailed as a result of a single contingency event. (See Hearing Transcript at p. 124, lines 11-16.) Mr. Larson did not in any way condition his affirmation of the NERC Planning Standard violation by stating that it depends on the probability of the single contingency event occurring. (Id.)

IV. The Company's petition requesting a Certificate to construct the Gibson City to Paxton East line should be granted because the line is the least-cost means of satisfying the service needs of its customers.

a. Staff supports the proposed route chosen by CIPS as the least cost means of satisfying the service needs of its customers

CIPS is requesting in this proceeding a Certificate to construct, operate and maintain a new transmission line in Ford County, Illinois. The proposed new line will connect CIPS' Gibson City South substation to CIPS' Paxton East substation. (See

DeWeese Direct Testimony, AmerenCIPS Ex. 2.0 at p. 3, lines 2-3.) The new transmission line will be a 138 kilovolt, three phase, multigrounded, overhead line that is approximately 17 miles in length. (Id. at p. 3, lines 16-17.) The cost to construct the new transmission line has been estimated by CIPS to be \$5,655,000. (Id. at p. 5, line 14.)

The route for the proposed line was chosen over the two alternatives submitted by CIPS in this proceeding because of its low construction costs, it impacts the fewest number of property owners and it maintains the greatest distance away from restricted aviation landing areas when compared to the other alternate routes. (Id. at p. 6, lines 4-7.) This route also impacts less agricultural land and is located along roadways, which will provide the best access for construction and future maintenance. (Id.) Furthermore, the capacity of the proposed line will be sufficient to permit the full output of the Gibson City plant to be deliverable at any time during the year, during a single contingency event.

Staff witness Larson has inspected the proposed route and the routes of the two alternatives submitted by CIPS in this proceeding. (See Larson Direct Testimony, ICC Staff Ex. 2.0 at p. 9, lines 190-192.) Mr. Larson acknowledges, in his direct testimony, that the proposed route follows roads and highways whenever possible, which will provide easy access to build and repair the line, and that much of the right-of-way is highway related. (Id. at lines 194-196.)

Mr. Larson also notes in his direct testimony that the cost to construct the new line on the proposed route would be approximately \$695,000 more than the cost to construct the line on the first alternate route. (Id. at lines 196-198.) The first alternate route, however, would follow an abandoned railroad right-of-way, much of which has

been removed and reverted back to agricultural use. (Id. at lines 200-202.) Moreover, as Mr. Larson acknowledges, the railroad right-of-way passes near several grain elevators that will be difficult to traverse. (Id. at lines 202-203.) As a result, based on cost and accessibility, Mr. Larson agrees that the proposed route chosen by CIPS is the least cost means of satisfying CIPS' customers. (Id. at p. 10, lines 210-211.)

b. The evaluation of externalities is not supported by the Public Utilities Act or by decisions of the Commission or the Courts of the State of Illinois

Intervenors' witness, Ross, testified in his direct testimony that prior to the issuance of the Certificate, the Commission should consider and evaluate certain costs for which he has apparently coined the term "externalities". Mr. Ross defines "externalities" as the cost of a product, project or service that is excluded or external to the stated cost of the product, project or service. Mr. Ross believes that the proposed transmission line would create these "externalities." As an example, Mr. Ross believes that adjacent landowners, which include those over which the proposed 138kV transmission line is not constructed, would be affected because utility poles and lines constructed adjacent or through residential property degrade the viability of that residential property since the facilities limit the use of the land and the residents must live with the facilities as part of their immediate landscape. (Intervenor's Ex. 1.0 at pp. 6, 9).

Mr. Ross testifies that local governments have limited or no control over land use decisions regarding electric transmission lines and therefore it is this Commission's responsibility to evaluate these external costs against the demonstrated need of the project.

Mr. Ross further testified in his rebuttal that while the company does not assign the cost of adjacent property value impacts of the proposed line, it does include in its planning assessment a consideration of the proposed line's impact that extend beyond the actual right of way. He then cites CIPS' witness Mr. DeWeese's direct testimony in which Mr. DeWeese discusses the number of occupied residences within 200 feet of the centerline. Mr. Ross testified that while acknowledging that there is an impact resulting from the construction of the transmission line beyond the borders of the proposed right of way, CIPS did not include those costs in its analysis. (Intervenor's Ex. 2.0 at p. 2.)

Section 8-406 of the Public Utilities Act, does not require that costs, which have been termed "externalities" by Mr. Ross, to be analyzed by a public utility and reviewed and analyzed by this Commission prior to the issuance of a Certificate.

The Commission, through its decisions and rule making powers, has set forth a statutory and regulatory scheme to be followed by public utilities who request a certificate of public convenience to construct facilities and serve customers.

In General Order No. 226 (83 Ill. Admin. Code part 300), a public utility is required to follow a very detailed procedure whenever it wishes to acquire property to build new facilities across private property.

83 Ill. Admin. Code part 305 sets forth criteria to be followed for the application of a Certificate of Public Convenience.

Part 305 provides that an application for a certificate of public convenience and necessity to construct, operate and maintain a new electric supply line or communication line shall be accompanied by a plat of suitable scale to clearly show: a) the location of the proposed line along its entire length; b) the location of railroad tracks, electric, supply

and communication lines which will be crossed by the proposed new lines; c) the location of all other electric supply and communication lines that are located within ½ mile of the route of the proposed new line; and d) the names of utilities owning or operating railroad, electric, supply and communication lines, shown on the plat in conformance with subsection (b) and (c) above. Part 305.9(a) provides that whenever possible, utilization of highways should be used in the construction of electric supply lines. (83 Ill. Admin. Code Sec. 305.90.) Section 305.90(b) also provides that situations should be avoided whereby the reasonable use of parcels of property is restricted by the planned route traversing the property.

CIPS' proposed line complies or will comply with Section 300 and 305 of the rules of the Commission, and all other relevant provisions of the Commission rules and regulations. CIPS can find no reported decisions of the Commission or the Courts of the State of Illinois which would require the analysis of "externalities" that is being proposed by witness Ross as a prerequisite to the issuance of a Certificate by this Commission. Mr. Ross' proposal to evaluate externalities is vague at best. It is open ended and beyond the scope of any fair reading of the criteria set forth in 8-406 of the Act. Moreover, it would constitute an unreasonable, if not impossible, roadblock to the construction of needed electric supply lines in the State of Illinois.

V. Conclusion

It is clear from the evidence herein presented, that the Commission should issue the Certificate requested in this proceeding because it is in the public interest to do so. Failure to grant the Certificate would cause CIPS to provide discriminatory service to AEG relative to other customers of CIPS, including other non-affiliated independent

power producers. Failure to grant the Certificate would cause CIPS to be in violation of Illinois statute, federal regulation, CIPS' own Planning Criteria, the NERC Planning Standards, Good Utility Practice and the Ameren OATT. Furthermore, failure to grant the Certificate could deter other independent power producers from siting generation in the state, which in the long run could have an adverse impact on the success of retail customer choice in Illinois. For these reasons and others addressed in this brief, the Commission should grant the Certificate requested.

DATED this 28th day of June, 2002.

Respectfully submitted,
Ameren Services Company
As agent for
Central Illinois Public Service Company
d/b/a AmerenCIPS

By: _____
David B. Hennen
Associate General Counsel
Ameren Services Company
One Ameren Plaza
1901 Chouteau Avenue
P.O. Box 66149 (MC 1310)
St. Louis, MO 63166-6149
(314) 554-4673
(314) 554-4014 (FAX)
dhennen@ameren.com

CERTIFICATE OF SERVICE

(Docket No. 01-0620)

I hereby certify that I have this 28th day of June, 2002, served the foregoing Initial Brief Of Central Illinois Public Service Company by electronic mail, to the following parties of record:

John D. Albers, Administrative Law Judge
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield, IL 62701
Email: jalbers@icc.state.il.us

Linda M. Buell
Office of General Counsel
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield, IL 62701
E-Mail: lbuell@icc.state.il.us

Howard Haas
Case Manager
Energy Division
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield, IL 62701
E-Mail: hhaas@icc.state.il.us

Joseph D. Murphy
Matt C. Deering
Meyer Capel, A Professional Corp.
306 W. Church Street
P.O. Box 6750
Champaign, IL 61826-6750
E-Mail: jmurphy@meyercafel.com

Phil Hardas
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield, IL 62701
Email: phardas@icc.state.il.us

Steven Matrisch
Office of General Counsel
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield, IL 62701
E-Mail: smatrisc@icc.state.il.us

Bruce Larson
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield, IL 62701
Email: blarson@icc.state.il.us

Robert J. Mill
Central Illinois Public Service Co.
607 E. Adams St.
Springfield, IL 62739
Email: bob_mill@ameren.com

Ron Linkenback
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield, IL 62701
Email: rlinkenb@icc.state.il.us

Steven R. Sullivan
Central Illinois Public Service Company
1901 Chouteau Avenue, MC 1300
St. Louis, MO 63166-6149
E-Mail: srsullivan@ameren.com

Gary A. Brown
Julie B. Cox
Sorling, Northrup, Hanna, Cullen &
Cochran, Ltd.
Illinois Building, Suite 800
P.O. Box 5131
Springfield, IL 61705
Email: gabrown@sorlinglaw.com
jbc Cox@sorlinglaw.com

David B. Hennen